THE COALITION
FOR GOVERNMENT PROCUREMENT

July 22, 2024

Department of Defense
Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency
4800 Mark Center Drive
Mailbox #24
Suite 08D09
Alexandria, VA 22350-1700

RE: Department of Defense, Office of the Secretary
Docket Number: DoD-2024-OS-0058
Defense Industrial Base Adoption of Artificial Intelligence for Defense Applications; Notice of Availability
89 FR 44964

To Whom It May Concern:

Thank you for the opportunity to submit comments in response to the Notice of Request for Comments on "Defense Industrial Base Adoption of Artificial Intelligence for Defense Applications; Notice of Availability" published on May 22, 2024.

By way of background, the Coalition for Government Procurement ("the Coalition") is a non-profit association of firms selling commercial services and products to the Federal Government. Its members collectively account for a significant percentage of the sales generated through General Services Administration contracts, including the Multiple Award Schedule program. Members of The Coalition also are responsible for many of the commercial item solutions purchased annually by the Federal Government. These members include small, medium, and large business concerns. The Coalition is proud to have collaborated with Government officials for over 40 years in promoting the mutual goal of common-sense acquisition.

The Coalition commends the Department of Defense (DoD) for considering ways to enable the defense industrial base to continue to adopt artificial intelligence (AI) for defense applications. Below are our responses to three of the questions. Parts of our response to question #4 are also responsive to question #9, so we have included some of the same language in our responses to both questions.

4. How can the DoD support the involvement of non-traditional defense contractors and small businesses in the design, development, testing, and deployment of AI technologies for defense applications?

To cast the widest net and receive the most innovative solutions from the largest possible base, DoD should maximize utilization of commercial practices. DoD should adhere to congressional intent and exempt AI acquisitions from new laws or executive orders unless doing so impacts national security, in accordance with the Federal Acquisition Streamlining Act of 1994. 41 USC 1906(b)(2). DoD will also need to utilize all of the tools in the procurement toolbox: existing contracts with commercial contractors such as the Federal Supply Schedule and other governmentwide information technology acquisition contracts, Other Transaction Authority, the Small Business Innovation Research program, Commercial Solution Openings, *etc*. DoD program managers and contracting personnel will need to accept and embrace the risks associated with innovation and cutting-edge technology.

Reducing regulatory burden will help all businesses, but especially small businesses and non-traditional contractors. All businesses that explore entering the federal procurement market encounter the burdensome regulatory scheme and associated reporting requirements. Examples of Federal Acquisition Regulation (FAR) clauses that non-traditional or small firms confront that deter these firms from the federal market include: Reporting Executive Compensation and First-Tier Subcontract Awards (52.204-10), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals - Representation (52.223-22), Encouraging Contractor Policies to Ban Text Messaging While Driving (52.223-18), Drug-Free Workplace (52.223-6), Certification Regarding Trafficking in Persons Plan (52.222.56), Printed or Copied on Doubled-Sided Postconsumer Fiber Content Paper (52.204-4), *etc.* With respect to AI, DoD should focus on acquiring the best products and services at the best price, eliminating other unrelated conditions or clauses that do not impact national security or cybersecurity.

In terms of an acquisition method, one Coalition member suggested DoD should consider establishing a two-stage process to vet AI technologies and then transition vetted technologies to testing and deployment environments. In Stage One, DoD could provide unclassified representative datasets against which AI technologies can be prototyped and demonstrated. The specific implementation of an AI technology can be vetted against the unclassified dataset. Non-traditional defense contractors and small businesses can easily be incorporated into this process. In Stage Two, DoD could provide programs staffed with experienced defense contractors or experienced DoD personnel to support non-traditional defense contractors and small businesses as they integrate vetted AI technologies into classified test environments. These programs would have the stated goal of integrating AI technologies from non-traditional

defense contractors and small businesses, as well as being a conduit to Programs of Record for deploying AI technologies.

7. How can the DoD promote information-sharing and collaboration among government agencies, defense contractors, and research institutions to enhance data availability, collective knowledge, capabilities, and defense innovation in AI adoption into defense systems?

One Coalition member suggested that DoD could provide unclassified representative datasets against which AI technologies can be prototyped and demonstrated. The specific implementation of an AI technology can be vetted against the unclassified dataset. These datasets would be the foundation of collaboration among government agencies, defense contractors, and research institutions.

9. Please identify statutory, regulatory, or other policy barriers to the DIB's design, development, testing and provision of AI-enabled defenses systems in a manner consistent with DoD's approach to Responsible AI?

To cast the widest net and receive the most innovative solutions from the largest possible base, DoD should maximize utilization of commercial practices. DoD should adhere to congressional intent and exempt AI acquisitions from new laws or executive orders unless doing so impacts national security, in accordance with the Federal Acquisition Streamlining Act of 1994. 41 USC 1906(b)(2). DoD will also need to utilize all of the tools in the procurement toolbox: existing contracts with commercial contractors such as the Federal Supply Schedule and other governmentwide information technology acquisition contracts, Other Transaction Authority, the Small Business Innovation Research program, Commercial Solution Openings, *etc*. DoD program managers and contracting personnel will need to accept and embrace the risks associated with innovation and cutting-edge technology.

Reducing regulatory burden will help all businesses, but especially small businesses and non-traditional contractors. All businesses that explore entering the federal procurement market encounter the burdensome regulatory scheme and associated reporting requirements. Examples of Federal Acquisition Regulation (FAR) clauses that non-traditional or small firms confront that deter these firms from the federal market include: Reporting Executive Compensation and First-Tier Subcontract Awards (52.204-10), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals - Representation (52.223-22), Encouraging Contractor Policies to Ban Text Messaging While Driving (52.223-18), Drug-Free Workplace (52.223-6),

Certification Regarding Trafficking in Persons Plan (52.222.56), Printed or Copied on Doubled-Sided Postconsumer Fiber Content Paper (52.204-4), *etc.* With respect to AI, DoD should focus on acquiring the best products and services at the best price, eliminating other unrelated conditions or clauses that do not impact national security or cybersecurity.

The Coalition sincerely appreciates the opportunity to provide the foregoing comments. If you have any questions, please contact Roger Waldron at rwaldron@thecgp.org or (202) 331-0975.

Sincerely,

Roger Waldron
President